

**Federal Defenders  
OF NEW YORK, INC.**

Southern District  
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July 12, 2022

**BY ECF**

Honorable Cathy Seibel  
United States District Judge  
Southern District of New York  
300 Quarropas St.  
White Plains, NY 10601

Application granted. Update due  
8/11/22.

SO ORDERED.

  
CATHY SEIBEL, U.S.D.J.

**Re: *United States v. Jose Rivera*, 12 Cr. 169 (CS)  
*Jose Rivera v. United States*, 16 Cv. 4983 (CS)**

7/13/22

Dear Judge Seibel,

I write to provide an update regarding Mr. Rivera's pending motion under 28 U.S.C. § 2255 based on *Johnson v. United States*, 135 S. Ct. 2551 (2015). This Court previously granted a series of requests to stay his petition, pending the Supreme Court's disposition of *United States v. Taylor*, No. 20-1459, 2021 WL 2742792, at \*1 (U.S. July 2, 2021). *See* Dkt. Nos. 32, 34, 38.<sup>1</sup>

*Taylor* has now been decided. The Supreme Court has determined that attempted Hobbs Act robbery is not a crime of violence for the purpose of 18 U.S.C. § 924(c). *United States v. Taylor*, 142 S. Ct. 2015 (2022). Thus, Mr. Rivera's existing § 924(c) conviction is not based on any qualifying predicate.

The Court directed defense counsel to provide a status update today. The parties have consulted and are discussing the impact of *Taylor*, as well as any subsequent charging decisions and possible resolutions that could follow for Mr. Rivera. Therefore, we hereby request that the Court permit us 30 days to complete these conversations and update the Court accordingly.

Thank you for your consideration.

Respectfully submitted,

/s/

Sylvie Levine  
Rachel Martin  
Ben Gold  
Federal Defenders of New York

<sup>1</sup> The docket citations correspond to the criminal case number, 12 Cr. 169 (CS).